IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.21 OF 2001

Airports Kamgar Union
C/o CPWD Mazdoor Union Office,
CPWD Office Compound,
Bamanwada, Vile Parle (East),
Mumbai 400 099. Petitioner

vs.

1. Airport Authority of India
a statutory authority constituted
under the Airport Authority of
India Act, 1994, having its office at
Bombay Airport, Bombay 400 099.

2. Union of India,
through the Secretary,
Ministry of Labour, Shram Bhavan,
New Delhi.

3. Central Advisory Contract Labour
Board, Jaisalmer House,
Mansingh Road, New Delhi.

4. Regional Labour Commissioner (Central)
Shram Raksha Bhawan,
Opp. Priyadarshini, Eastern Express
Highway, Shiv Shrushti Marg, Sion,
Mumbai 400 022.

5. M/s.Galaxy Electrical Corporation,
183/4993, G.B.Pant Nagar,
Ghatkopar (East),
Bombay 400 075. Respondents

Mr.Bhavesh Parmar for the petitioner.

Mr.S.K.Talsania, Sr.Advocate i/b.M/s.Bhaishankar Kanga &
Girdharlal for respondent no.1.

CORAM : F.I.REBELLO &
ANOOP V. MOHTA,JJ.

DATED : 14th December, 2006

ORAL JUDGMENT (Per F.I.Rebello,J.).

It is not necessary to set out facts in detail.

The petitioner is the Union representing the workmen on whose behalf the present petition has been filed. They were engaged through a contractor. It is the case of the petitioner that in respect of the work which they are doing, the Appropriate Government was pleased to issue a notification abolishing contract labour. It is in these circumstances that the petitioner filed the present petition directing the respondents to declare them as workers of respondent no.1 and/or to regularise their services. An interim relief was also granted by this Court protecting their services by order dated 29th December, 2000 which was continued by order dated 23rd January 2001 and the same continues till date.

2. During pendency of the petition, the Supreme Court has now declared the law inso far as the effect of abolishing of contract labour in **Steel Authority of India Ltd. v. National Union Water Front Workers, 2001 AIR SCW 3574.** In view of the judgement of the Supreme Court, it would be clear that the reliefs as prayed for by the petitioner cannot be granted by this Court in the exercise of its extraordinary jurisdiction but will have to be granted by the appropriate Industrial Tribunal.

3. In fact the petitioner had taken up the matter in conciliation. The conciliation officer has submitted failure report. The Appropriate Government by order

dated 5th October, 2004 declined to make reference on the ground that the matter is subjudice before this Court. The order communicated to the petitioner reads as under:

> "The matter is subjudice before the Hon'ble High Court of Mumbai."

The Government of India need to be informed that it is not the High Court of Mumbai, but the High Court of Bombay.

4. On behalf of respondent no.1, the learned counsel points out that the Delhi High Court in **Civil Writ** No.6540 of 1999-Airports Authority of India **v. Central Advisory Contract Labour Board & ors. decided on 22nd November 2001,** set aside the notification abolishing the contract labour and as such the said notification based on which the petitioner had approached this Court, no relief subsists.

5. Whatever be the position, it will be open to the petitioners, if in law they are so entitled, to move the conciliation machinery under the provisions of Industrial Disputes Act, 1947. In the instant case they had so moved, but the Appropriate Government had declined to make reference in view of the pendency of the matter before this Court. Considering that the

petition is being disposed of, as the law is now settled that merely because the Appropriate Government had declined to make a reference earlier does not prevent it from reconsidering the matter and if a reference can be made then to make such a reference. Considering the record before the Appropriate Government, the Appropriate Government on the petitioner's forwarding a copy of the order of this Court to it, to consider it within two weeks from today and to take appropriate decision and communicate the same to the petitioner within six weeks thereafter.

6. As by virtue of interim order, the workmen were protected, in our opinion that interim order can be continued for a further period of three months from today.

7. With the above observations, rule is discharged. There shall be no order as to costs.

(F.I. REBELLO, J.)

(ANOOP V. MOHTA,J.)